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Note verbale dated 22 October 2013 from the United States Mission to the United Nations addressed to the Chair of the Committee

The United States would like to submit its national implementation report regarding concrete measures the United States has taken to implement Security Council resolution 2094 (2013) (see annex).

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Annex to the note verbale dated 22 October 2013 from the United States Mission to the United Nations addressed to the Chair of the Committee

Report of the United States of America for the Security Council on efforts to implement Security Council resolution 2094 (2013)

This report covers the concrete measures the United States has taken in order to implement effectively paragraphs 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 22, 23, 24 and 30 of Security Council resolution 2094 (2013).

The United States considers it essential for Member States to fully and effectively implement resolution 2094 (2013). In addition, the United States will continue to support other States' efforts, as requested, to prevent financial transactions or trade in goods and services prohibited by resolution 2094 (2013).

Following the structure of relevant provisions of the resolution, United States actions to date are as follows:

Paragraph 7: Reaffirms that the measures imposed in paragraph 8 (c) of resolution 1718 (2006) apply to items prohibited by paragraphs 8 (a) (i), 8 (a) (ii) of resolution 1718 (2006) and paragraphs 9 and 10 of resolution 1874 (2009), decides that the measures imposed in paragraph 8 (c) of resolution 1718 (2006) also apply to paragraphs 20 and 22 of this resolution, and notes that these measures apply also to brokering or other intermediary services, including when arranging for the provision, maintenance or use of prohibited items in other States or the supply, sale or transfer to or exports from other States.

The United States prohibits imports of all goods, services and technology from North Korea. Goods, services and technology from North Korea may not be imported into the United States, either directly or through third countries, without prior notification to and approval of the United States Department of the Treasury's Office of Foreign Assets Control.

In June 2005, President Bush signed Executive Order 13382 ("Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters"), which blocks or "freezes" the property and interests in property, subject to United States jurisdiction, of persons listed in the annex to the Executive Order as well as persons determined to meet the criteria of the Executive Order, including those contributing to the proliferation of weapons of mass destruction (WMD) or their means of delivery. Entities and individuals that are designated under the Executive Order are denied access to the United States financial and commercial systems. United States persons, wherever located, including United States financial institutions, are required to freeze assets under their control belonging to designated entities/individuals and are generally prohibited from engaging in transactions with them. This legal authority allows the United States to implement effectively many of the measures set forth in resolution 2094 (2013). The entities and individuals designated under Executive Order 13382 can be found at the following website: http://www.treasury.gov/resource-center/sanctions/Programs/Documents/wmd.pdf.

In addition, in August 2010, President Obama signed Executive Order 13551 ("Blocking Property of Certain Persons With Respect to North Korea"), which blocks the property and interest in property of persons listed in the annex to the

Executive Order as well as of individuals and entities determined to have been engaged in trafficking in North Korean arms and related materiel; imports into North Korea of luxury goods; or illicit activities that involve or support the Government of North Korea or its senior officials, including money-laundering, the counterfeiting of goods or currency, bulk cash smuggling, and narcotics trafficking.

Paragraph 8: Decides further that measures specified in paragraph 8 (d) of resolution 1718 (2006) shall apply also to the individuals and entities listed in annexes I and II of this resolution and to any individuals or entities acting on their behalf or at their direction, and to entities owned or controlled by them, including through illicit means, and decides further that the measures specified in paragraph 8 (d) of resolution 1718 (2006) shall apply to any individuals or entities acting on the behalf or at the direction of the individuals and entities that have already been designated, to entities owned or controlled by them, including through illicit means.

Following the adoption of resolutions 1874 (2009) and 2094 (2013), the United States, in March 2013, designated, pursuant to Executive Order 13382, the three individuals listed in annex I to resolution 2094 (2013): Mun Cho'ng-Ch'o'l, a Tanchon Commercial Bank representative who served in Beijing; and Yo'n Cho'ng-Nam and Ko Ch'o'l-Chae, both based in Dalian, China, and representatives of the Korea Mining Development Trading Corporation. The Second Academy of Natural Sciences and Korea Complex Equipment Import Corporation, listed in annex II to the resolution, were previously designated pursuant to Executive Order 13382, in August 2010 and October 2005, respectively.

In order to implement the requirement to freeze the assets of any individuals or entities acting on behalf or at the direction of any designated entity or individual imposed by paragraph 8, the United States has taken action against a number of additional entities and individuals. For example, in March 2013, pursuant to Executive Order 13382, the United States designated four senior members of the North Korean Government: Paek Se-Bong, Chairman of the Second Economic Committee; Pak To-Chun, Secretary of the United States and European Union-designated Munitions Industry Department; Chu Kyu-Chang, Director of the Munitions Industry Department; and O Kuk-Ryol, Vice-Chairman of the North Korean National Defence Commission. The Foreign Trade Bank acts as North Korea's primary foreign exchange bank and has provided key financial support to the Korea Kwangson Banking Corporation. The Korea Kwangson Banking Corporation was designated under Executive Order 13382 in August 2009 for providing financial services in support of the entities Tanchon Commercial Bank and the Korea Hyoksin Trading Corporation, both of which were designated by the Committee established pursuant to resolution 1718 (2006). The Foreign Trade Bank has also facilitated millions of dollars in transactions that have benefited the Korea Mining Development Trading Corporation — North Korea's premier arms dealer — and its financial arm, Tanchon Commercial Bank. North Korea's Second Economic Committee oversees the production of North Korea's ballistic missiles and directs the activities of the Korea Mining Development Trading Corporation. In April 2009, Tanchon Commercial Bank, the Korea Mining Development Trading Corporation, and the Korea Hyoksin Trading Corporation were designated by the Security Council Committee established pursuant to resolution 1718 (2006).

Additionally, in June 2013, the United States designated Daedong Credit Bank (DCB), together with DCB Finance Limited — a DCB front company — and DCB

representative Kim Chol Sam pursuant to Executive Order 13382. The financial operations carried out by DCB, DCB Finance Limited and Kim Chol Sam are responsible for managing millions of dollars of transactions in support of the North Korean regime's destabilizing activities.

Also, designated under Executive Order 13882 was Son Mun San, the External Affairs Bureau Chief of North Korea's General Bureau of Atomic Energy, for his work directing North Korea's nuclear-related research efforts. The General Bureau of Atomic Energy, which was previously designated by the United States and the United Nations, is responsible for North Korea's nuclear programme.

Paragraphs 9 and 10:

9. Decides that the measures specified in paragraph 8 (e) of resolution 1718 (2006) shall also apply to the individuals listed in annex I of this resolution and to individuals acting on their behalf or at their direction;

10. Decides that the measures specified in paragraph 8 (e) of resolution 1718 (2006) and the exemptions set forth in paragraph 10 of resolution 1718 (2006) shall also apply to any individual whom a State determines is working on behalf or at the direction of a designated individual or entity or individuals assisting the evasion of sanctions or violating the provisions of resolutions 1718 (2006), 1874 (2009), 2087 (2013), and this resolution, and further decides that, if such an individual is a DPRK national, then States shall expel the individual from their territories for the purpose of repatriation to the DPRK consistent with applicable national and international law, unless the presence of an individual is required for fulfilment of a judicial process or exclusively for medical, safety or other humanitarian purposes, provided that nothing in this paragraph shall impede the transit of representatives of the Government of the DPRK to the United Nations Headquarters to conduct United Nations business;

The United States has the authority to designate persons under Executive Order 13382 ("Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters") and Executive Order 13551 ("Blocking Property of Certain Persons with Respect to North Korea"). These Executive Orders, together with a Presidential Proclamation entitled "Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions", allow for the implementation of a travel ban against individuals who meet the criteria set forth in paragraphs 9 and 10 of resolution 2094 (2013).

Paragraphs 11 and 14:

11. Decides that Member States shall, in addition to implementing their obligations pursuant to paragraphs 8 (d) and (e) of resolution 1718 (2006), prevent the provision of financial services or the transfer to, through, or from their territory, or to or by their nationals or entities organized under their laws (including branches abroad), or persons or financial institutions in their territory, of any financial or other assets or resources, including bulk cash, that could contribute to the DPRK's nuclear or ballistic missile programmes, or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, or to the evasion of measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, including by freezing any financial or other assets or resources on their territories or that hereafter come within their territories, or that are subject

to their jurisdiction or that hereafter become subject to their jurisdiction, that are associated with such programmes or activities and applying enhanced monitoring to prevent all such transactions in accordance with their national authorities and legislation;

14. Expresses concern that transfers to the DPRK of bulk cash may be used to evade the measures imposed in resolutions 1718 (2006), 1874 (2009), 2087 (2013), and this resolution, and clarifies that all States shall apply the measures set forth in paragraph 11 of this resolution to the transfers of cash, including through cash couriers, transiting to and from the DPRK so as to ensure such transfers of bulk cash do not contribute to the DPRK's nuclear or ballistic missile programmes, or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, or to the evasion of measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution.

The United States prohibits the provision of financial services or transactions for or with all designated persons. In addition, the United States imposes a ban on all exports to the Democratic People's Republic of Korea unless licensed; a licence is required for the export or re-exports to North Korea of all United States-origin items subject to the Export Administration Regulations (EAR), other than food or medicine classified as "EAR99".

The United States Department of the Treasury, through its Financial Crimes Enforcement Network, issued an advisory to United States financial institutions in April 2013 regarding North Korean illicit financial activities. The advisory (FIN-2013-A004) provides guidance to United States financial institutions on implementing the financial provisions in resolution 1718 (2006), resolution 1874 (2009), resolution 2087 (2013) and resolution 2094 (2013). It sets forth United States concerns regarding the use of deceptive financial practices by North Korea and North Korean entities, as well as those acting for or on their behalf, to hide illicit conduct, including proliferation activities. It advises United States financial institutions to take commensurate risk mitigation measures.

The advisory incorporates the recent guidance issued by the Financial Action Task Force on the implementation of financial provisions in WMD-related Security Council resolutions and includes specific risk indicators to assist financial institutions in identifying high-risk customers and transactions associated with illicit activity of the Democratic People's Republic of Korea. The advisory encourages financial institutions to apply corresponding enhanced due diligence with high-risk customers to ensure that financial institutions do not facilitate transactions related to prohibited activities. Possible due diligence measures include obtaining additional information regarding the customer and transaction, such as the nature, end-use or end-user of the item, as well as export control information, such as copies of export control or other licences issued by the national export control authorities, and end-user certification.

The advisory also notes that there is an increased likelihood that correspondent accounts held for North Korean financial institutions, as well as their foreign branches and subsidiaries, may be used to hide illicit conduct and related financial proceeds in an attempt to circumvent existing sanctions. A list of some North Korean banks is included in the advisory for ease of reference. Finally, the advisory also highlights the risk that North Korea may rely on cash transactions to evade the provisions of Security Council resolutions, and urges financial institutions to remain

vigilant of large cash deposits, particularly when associated with other risk factors related to North Korea and prohibited activities.

Paragraphs 12 and 13:

12. Calls upon States to take appropriate measures to prohibit in their territories the opening of new branches, subsidiaries, or representative offices of DPRK banks, and also calls upon States to prohibit DPRK banks from establishing new joint ventures and from taking an ownership interest in or establishing or maintaining correspondent relationships with banks in their jurisdiction to prevent the provision of financial services if they have information that provides reasonable grounds to believe that these activities could contribute to the DPRK's nuclear or ballistic missile programmes, or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), and this resolution, or to the evasion of measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution;

13. Calls upon States to take appropriate measures to prohibit financial institutions within their territories or under their jurisdiction from opening representative offices or subsidiaries or banking accounts in the DPRK if they have information that provides reasonable grounds to believe that such financial services could contribute to the DPRK's nuclear or ballistic missile programmes, and other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), and this resolution.

The Financial Crimes Enforcement Network advisory referenced above highlights the United States concerns that North Korean financial institutions are seeking to compensate for the loss of access to United States and worldwide financial sectors by establishing new financial relationships, including the opening of new foreign branches, subsidiaries, representative offices, or correspondent or other relationships either outside or within North Korea, and the pursuit of joint ventures.

Paragraph 15: Decides that all Member States shall not provide public financial support for trade with the DPRK (including the granting of export credits, guarantees or insurance to their nationals or entities involved in such trade) where such financial support could contribute to the DPRK's nuclear or ballistic missile programmes, or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, or to the evasion of measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution.

The United States has not provided public financial support for trade with the Democratic People's Republic of Korea.

Paragraph 16: Decides that all States shall inspect all cargo within or transiting through their territory that has originated in the DPRK, or that is destined for the DPRK, or has been brokered or facilitated by the DPRK or its nationals, or by individuals or entities acting on their behalf, if the State concerned has credible information that provides reasonable grounds to believe the cargo contains items the supply, sale, transfer, or export of which is prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, for the purpose of ensuring strict implementation of those provisions.

The United States exercises broad authority to search persons, conveyances, baggage, cargo and merchandise entering or departing the United States. United States Customs and Border Protection, the federal agency responsible for enforcing

more than 400 laws for various federal agencies at the border, including those laws that prohibit or restrict the movement of articles across United States borders, may conduct searches without a warrant and without probable cause. Therefore, with respect to any goods on board a vessel in a United States port, for purposes of import, export or goods transiting through the United States (including freight remaining on board), Customs and Border Protection has the legal authority to order offloading to inspect the container in port.

Any officer of United States Customs may at any time go on board any vessel or vehicle at any place in the United States or within the customs waters or, as he or she may be authorized, within a customs-enforcement area or at any other authorized place, without as well as within his or her district, and examine the manifest and other documents and papers and examine, inspect and search the vessel or vehicle and every part thereof and any person, trunk, package or cargo on board, and to this end may hail and stop such vessel or vehicle and use all necessary force to compel compliance.

Paragraph 17: Decides that, if any vessel has refused to allow an inspection after such an inspection has been authorized by the vessel's flag State, or if any DPRK-flagged vessel has refused to be inspected pursuant to paragraph 12 of resolution 1874 (2009), all States shall deny such a vessel entry to their ports, unless entry is required for the purpose of an inspection, in the case of emergency or in the case of return to its port of origination, and decides further that any State that has been refused by a vessel to allow an inspection shall promptly report the incident to the Committee.

Executive Order 13466, which is implemented by the United States Department of the Treasury, prohibits United States persons from owning, leasing, operating or insuring North Korean-flagged vessels.

Paragraph 18: Calls upon States to deny permission to any aircraft to take off from, land in or overfly their territory, if they have information that provides reasonable grounds to believe that the aircraft contains items the supply, sale, transfer or export of which is prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, except in the case of an emergency landing.

It is the long-standing policy of the United States to prohibit any aircraft from landing, departing or overflying the territories of the United States if there is information that such an aircraft contained illicit cargo in violation of the Security Council resolutions on the Democratic People's Republic of Korea. The United States has no air services agreement with North Korea, and there are no flights by United States airlines to North Korea or flights by Air Koryo, North Korea's national carrier, to the United States.

Paragraph 22: Calls upon and allows all States to prevent the direct or indirect supply, sale or transfer to or from the DPRK or its nationals, through their territories or by their nationals, or using their flag vessels or aircraft, and whether or not originating in their territories of any item if the State determines that such item could contribute to the DPRK's nuclear or ballistic missile programmes, activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, or to the evasion of measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, and directs the Committee to issue an

Implementation Assistance Notice regarding the proper implementation of this provision.

A licence from the United States Department of Commerce is required to export any item subject to the United States Export Administration Regulations to the Democratic People's Republic of Korea (with the exception of certain foods and medicines). The United States bans all imports from the Democratic People's Republic of Korea, unless licensed by the Department of the Treasury.

Paragraph 23: Reaffirms the measures imposed in paragraph 8 (a) (iii) of resolution 1718 (2006) regarding luxury goods, and clarifies that the term "luxury goods" includes, but is not limited to, the items specified in annex IV of this resolution.

The United States imposes a ban on all exports, to include luxury goods, to the DPRK unless licensed; a licence is required for the export or re-export to North Korea of all items subject to the Export Administration Regulations (EAR), other than food or medicine classified as "EAR99". Executive Order 13551 ("Blocking Property of Certain Persons with Respect to North Korea") (August 2010) also blocks the property of entities and individuals involved in, among other things, the importation into North Korea of luxury goods.

Paragraph 24: Calls upon States to exercise enhanced vigilance over DPRK diplomatic personnel so as to prevent such individuals from contributing to the DPRK's nuclear or ballistic missile programmes, or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), and this resolution, or to the evasion of measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution.

The United States continues to exercise vigilance to ensure that no Democratic People's Republic of Korea diplomatic personnel in the United States contribute to the Democratic People's Republic of Korea illicit programmes, prohibited activities or evasion of sanctions.

In the Financial Crimes Enforcement Network advisory referenced above, Democratic People's Republic of Korea diplomatic personnel are included as one of the risk indicators for financial institutions to use in identifying high-risk customers and transactions. For these customers, the advisory encouraged financial institutions to apply corresponding enhanced due diligence to ensure that financial institutions do not facilitate transactions related to prohibited activities.

Paragraph 30: Emphasizes the importance of all States, including the DPRK, taking the necessary measures to ensure that no claim shall lie at the instance of the DPRK, or of any person or entity in the DPRK, or of persons or entities designated for measures set forth in resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, or any person claiming through or for the benefit of any such person or entity, in connection with any contract or other transaction where its performance was prevented by reason of the measures imposed by this resolution or previous resolutions.

United States law recognizes contracts as being unenforceable on the grounds of force majeure, and on the grounds of being contrary to public policy, in certain circumstances.